

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D. C.**

In the Matter of	)	
	)	
	)	
Telecommunications Relay Services and	)	
Speech-to-Speech Services for Individuals	)	GC Docket 03-123
with Hearing and Speech Disabilities	)	
	)	

**REPLY COMMENTS OF THE PUBLIC SERVICE  
COMMISSION OF THE STATE OF MISSOURI**

The Public Service Commission of the State of Missouri (“MoPSC”) offers the following reply comments in response to the Comments of Sprint Corporation dated October 18, 2004 in the above referenced docket. On June 30, 2004, the Federal Communication Commission (“Commission”) released a Further Notice of Proposed Rulemaking (“FNPRM”) seeking comment on the appropriate method regarding how to reimburse telecommunications relay service (“TRS”) providers for calls utilizing Internet protocol (“IP”). The Commission also sought comment on how to determine, for jurisdictional compensation purposes, the location of the party to an IP relay call who is using the Internet to communicate with the communications assistant.

**I. Comments of Sprint Corporation**

On October 18, 2004, Sprint filed comments on several issues raised in the FNPRM. The MoPSC offers these reply comments specifically to address the jurisdictional issues raised in the following Sprint positions:

- Internet Relay should become a mandatory service and be offered as part of a state's certified TRS undertaking. The States would then be responsible for funding intrastate Internet Relay calls.
- The Commission should assign the Internet Relay calls to the various intrastate jurisdictions by using a fixed allocator based on the ratio of intrastate to interstate calls using traditional TRS.
- Like Internet Relay, Video Relay Service ("VRS") should be a mandatory TRS service; providers of VRS should be paid on a per-minute basis; and the commission should use an allocator to assign VRS calls between the interstate and intrastate jurisdictions.

## **II. Relevant Commission Decisions**

In its April 22, 2002 Declaratory Ruling and Second FNPRM in CC Docket No. 98-67, the Commission found that Internet protocol relay service ("IP Relay") falls within the statutory definition of TRS. The Commission further found that such services were eligible for cost recovery in accordance with Section 225 of the Communications Act of 1934, as amended ("the Act"). The FCC determined that dial-up access to Internet-protocol services, such as TRS and VRS, is an interstate matter.<sup>1</sup> The FCC also found that Digital Subscriber Line ("DSL") service, a service that relies on Internet protocols, is interstate. Finally, the FCC determined that "exclusive federal jurisdiction prevails unless a service can be characterized as 'purely intrastate' or it is practically and economically possible to separate interstate and intrastate components of a mixed service without negating federal objectives."<sup>2</sup>

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<sup>1</sup> 16 FCC Rcd 9151 (2201)

<sup>2</sup> *In re: Petition for Declaratory Ruling that Pulver.com's Free World Dialup is Neither Telecommunications nor a Telecommunications Service*, 19 FCC R. 3307 (2004).

### **III. MoPSC Reply Comments**

The FCC currently has pending an IP Enabled Services proceeding (WC Docket No. 04-36), which addresses many of the same jurisdictional issues as raised in the June 30, 2004 FNPRM in this docket. The MoPSC respectfully urges the Commission to resolve the issues in its IP Enabled Services proceeding before determining the jurisdiction and funding of IP-TRS calls.

However, to specifically respond to Sprint's position relative to the pending FNPRM, the MoPSC offers these additional reply comments.

#### **A. Jurisdictional Nature of TRS and VRS IP Relay**

Since there is no automatic means for determining whether a call made via IP Relay is intrastate or interstate, the Commission previously authorized recovery of costs from the Interstate TRS fund. The Commission found this determination was supported by Section 225 of the Act, which "generally" provides that costs caused by interstate services shall be recovered from interstate jurisdiction and costs caused by intrastate service shall be recovered from intrastate jurisdiction. If the Commission determines, in its IP Enabled Services docket, that IP calls are interstate subject to the exclusive jurisdiction of the Federal government, then IP Relay calls involving TRS or VRS should also be recovered solely as interstate calls. However, if the Commission finds that IP calls are subject to mixed jurisdiction, then the MoPSC asserts that that same logic should be applied to the TRS or VRS subject to this FNPRM.

#### **B. "Fixed allocator"**

In the FNPRM, the Commission seeks comment on what methods exist or could be developed to determine the location of a caller using IP Relay to adequately determine the proper jurisdiction of the call. Sprint, in its comments, recommends the Commission assign a fixed allocator that is "based on the ratio of intrastate to interstate calls using traditional TRS". In much the same

manner as it is difficult to identify the origination and/or termination of a toll free 800- number, it is difficult to determine the origination of an IP Relay call. This is further complicated by the alleged fraudulent use of IP Relay services by international users to purchase merchandise from businesses in the United States. Because IP Relay calls are routed over the Internet and can originate anywhere within the United States or a foreign country, it is difficult to determine the origination of the calls to block potentially fraudulent traffic or to determine the proper jurisdictional allocation of the call.

As previously stated, the MoPSC supports allocating the entire cost to the Interstate TRS Fund consistent with the finding that Internet calls are largely interstate in nature, and consistent with previous Commission decisions discussed above. However, should the Commission determine that it is appropriate to allocate a portion of TRS or VRS calls as intrastate in nature, the MoPSC respectfully urges the Commission to be cognizant that individual state circumstances and regulations may create conflict with such determination. For instance, as can be seen by the attached letter from Kelvin L. Simmons, MoPSC Chair, to Matt Gwynn, Sprint Account Manager, in July 2002, the MoPSC notified Sprint of its approval for Sprint to provide VRS contingent upon payment for VRS being provided from federal sources only. In order to compensate Sprint for an intrastate portion of VRS calls, the MoPSC would, at a minimum, have to reevaluate current Missouri end user surcharges. However, such a change in compensation could also result in the MoPSC having to seek new bids for Relay Service.

#### **IV. Summary**

The MoPSC respectfully urges the Commission to resolve the issues in its IP Enabled Services proceeding before determining the jurisdiction and funding of IP-Relay calls. If the Commission should determine that a portion of IP-Relay calls should be intrastate, the MoPSC respectfully urges the Commission to be cognizant that individual state circumstances and regulations may create conflict with such determination.

Respectfully submitted,

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